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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,083	02/11/2004	Dilip Tapadiya	TAPADI.003A	2371

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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/776,083

Applicant(s)

TAPADIYA, DILIP

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 103-116 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 2,4,5,13,14,16-22,103-106,108-110 and 112-116 is/are rejected.
- 7) ☒ Claim(s) 3,6-12,15,107 and 111 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/11/04;01/04/06;0</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS filed 05/05/06</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 4 – 5, 13 – 14, 16 – 22, 103 – 106, 108 – 110 and 112 – 116 are rejected under 35 U.S.C. 102(b) as being anticipated by Holloway et al. (5,381,562).

As to claim 2, Holloway discloses a medical kit comprising at least one basin with a sidewall portion and a bottom wall portion and a conversion device configured to provide a substantially leak-proof barrier on at least one of the sidewall portion and the bottom wall portion in a first state and form a drain (42) in a second state, through which fluid inside the basin can be drained as set forth in col. 7, lines 3 - 15.

As to claim 4, Holloway discloses the conversion device located near the bottom of the at least one surface of the basin as set forth in figure 1.

With reference to claim 5, Holloway discloses a frangible portion as set forth in col. 7, lines 3 - 15.

As to claims 13 and 112, Holloway discloses a conversion device providing a tube as claimed as set forth in figure 1.

With respect to claims 14 and 113, the examiner contends that the manner in which the tube is connected with the peripheral wall is considered a product by process limitation.

"[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted)

Regarding claim 16, Holloway discloses a tube with a first end sized to engage a suction hose as set forth in figure 1.

With respect to claim 17, Holloway discloses a conversion device comprising a clip configured to engage a portion of the basin and to engage a suction hose so as to fix an end of a suction hose near the bottom wall portion of the basin as set forth in figure 7.

With reference to claim 18, Holloway discloses a conversion device including an aperture formed in the peripheral wall and a plug configured to engage the aperture as set forth in col. 7, lines 30 – 36 and in figure 9.

As to claims 19, 108 – 110 and 114 – 116, the conversion device may be interpreted as claimed and may comprise a threaded aperture and plug as set forth in col. 7, lines 30 – 36 and in figure 9.

Regarding claim 20, see col. 7, lines 30 – 34.

As to claim 21, see col. 7, lines 21 – 29 and figures 5 – 6.

With reference to claim 22, Holloway discloses a medical kit wherein at least one of the first and second ends of the tube is sized to engage a suction hose as set forth in figure 1.

As to claim 103, Holloway discloses a medical basin for collecting fluid during irrigation of a wound on a human anatomy comprising: at least one sidewall and a bottom, the at least one sidewall and the bottom defining a cavity; and at least one convertible portion in at least one of the bottom and the at least one sidewall, where in the at least one convertible portion is configured to define an aperture through the at least one sidewall and bottom when the at least one convertible portion is modified as set forth in col. 7, lines 3 - 15.

With reference to claim 104, Holloway discloses a frangible portion as set forth in col. 7, lines 3 - 15.

As to claims 105 and 106, Holloway discloses a medical basin wherein the at least one frangible portion is an annularly score as set forth in figure 1.

Allowable Subject Matter

Claim 1 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: the overall claimed combination of a medical kit comprising multiple basin, a grommet, an apertured irrigation shield, a cannula with an adhesive surface wherein at least one of the basins has at least one convertible portion and the basin is sterilized and made of a biocompatible hypoallergenic material has neither been suggested nor rendered


obvious by the prior art of record.

Claims 3, 6 – 12, 15, 107 and 111 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Michele Kidwell
Primary Examiner
Art Unit 3761